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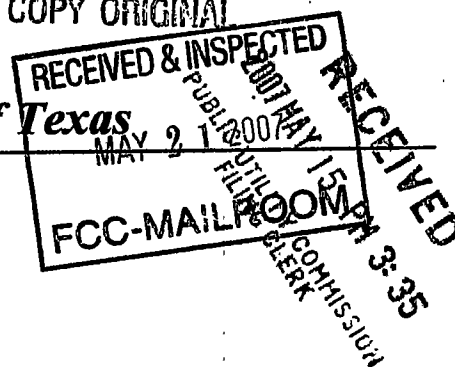
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Commissioner

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Executive Director



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Public Utility Commission of Texas

Marlene H. Dortch - Secretary
Federal Communications Commission
445 Twelfth Street, S.W. - TWA 325
Washington, D.C. 20554

Irene Flannery - Vice-President of High Cost and Low Income Divisions
Universal Service Administrative Company
2000 L. Street, NW - Suite 200
Washington, D.C. 20036

May 15, 2007

RE: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

TPUC Project No. 25787 - FCC Letters Regarding ETC Designation Pursuant to FTA '96 § 214(e) (2)

TPUC Docket No. 33935 - Application of NSN Wireless, L.P. for Designation as an Eligible Telecommunications Carrier (ETC), and for Designation as an Eligible Telecommunications Provider (ETP)

ETC Designation of NSN Wireless, L.P.

Pursuant to Section 214(e) (2) of the Communications Act of 1934, as amended (the "Act") and 47 C.F.R. sections 54.201 - 54.203, the Texas Public Utility Commission (TPUC) has granted eligible telecommunications carrier (ETC) designation to NSN Wireless, L.P. (NSN). The attached *Order No. 3*, Docket No. 33395, issued on April 23, 2007 grants NSN ETC designation in various wire centers where AT&T Texas or Verizon Southwest (Verizon) is the incumbent provider, as shown in Exhibit 1 of NSN's application. Both AT&T Texas and Verizon are non-rural incumbent local exchange carriers (ILECs).

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Sincerely,

Rick Talbot

Rick Talbot – Policy Analyst
Communication Industry Oversight Division - Texas Public Utility Commission

cc: attachments

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PROJECT NO. 33935

**APPLICATION OF NSN WIRELESS L.P.
FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
AND ELIGIBLE
TELECOMMUNICATIONS PROVIDER**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**ORDER NO. 4
NOTICE OF APPROVAL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND
ELIGIBLE TELECOMMUNICATIONS PROVIDER**

Procedural History

On March 2, 2007, NSN Wireless, L.P. (NSN or the Company) filed a combined application for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418, and designation as an eligible telecommunications provider (ETP) pursuant to P.U.C. SUBST. R. 26.417. NSN also requested a waiver of P.U.C. SUBST. R. 26.417(c)(1)(A) so that its ETP application could be processed simultaneously with its ETC application. NSN seeks ETC and ETP designation in various wire centers where AT&T Texas or Verizon Southwest (Verizon) is the incumbent provider, as shown in Exhibit 1 of NSN's application. Both AT&T Texas and Verizon are non-rural incumbent local exchange carriers (ILECs).

The Commission issued Order No. 1 in this proceeding, which established a procedural schedule, including deadlines for comment, motions to intervene, and publication of notice in the *Texas Register*. Notice was published in the *Texas Register* on March 16, 2007. The Applicant provided a copy of the application to the Office of Public Utility Counsel at the time of filing. Pursuant to P.U.C. SUBST. R. 26.417(f)(2)(A)(i) and 26.418(g)(2)(A)(i), the effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later. However, on April 10, 2007, the Public Utility Commission of Texas (Commission) Staff (Staff) recommended that NSN's application be denied or alternately

NSN be given additional opportunity to clarify how it intends to fulfill the requirements of P.U.C. SUBST. R. 26.418(c)(1) and 47 C.F.R. §54.201(d)(1) to provide services "either using its own facilities or a combination of its own facilities and resale of another carrier's services" in light of the TRRO.¹ Order No. 3, filed April 11, 2007, deemed the application incomplete, allowing time for the Applicant to file clarification, and indefinitely extended the effective date. On April 11, 2007, NSN filed an amendment to its application clarifying how it intends to fulfill the requirements, satisfying Staff's issues with the Application.

No objection, comment, or motions to intervene were filed, and no hearing was requested. P.U.C. SUBST. R. 26.417(f)(2)(A) and 23.418(g)(2)(A) provide that applications for ETC/ETP designation may be reviewed administratively.

On April 19, 2007, Commission Staff (Staff) filed a revised recommendation for approval of ETC and ETP status for NSN based on the following:

Designation as Eligible Telecommunications Carrier

To qualify for ETC status, a carrier must meet four conditions:²

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).
2. The carrier must offer the following services (requisite services),³ using its own facilities or a combination of its own facilities and the resale of another carrier's services:
 - (a) voice grade access to the public switched network;
 - (b) local usage;

¹ Order on Remand, *In the Matter of Unbundled Access to Network Elements Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313; CC Docket No. 01-338; FCC 04-290 (rel. Feb. 2005) (TRRO).

² 47 C.F.R. § 54.201(b)-(d) (2001).

³ 47 C.F.R. § 54.101 (2001).

⁴ 47 C.F.R. § 54.201 (2001).

- (c) dual tone multi frequency signaling or its functional equivalent;
 - (d) single party service or its functional equivalent;
 - (e) access to emergency services, including such services as 911 or enhanced 911;
 - (f) access to operator services;
 - (g) access to interexchange service;
 - (h) access to directory assistance; and
 - (i) toll blocking for qualifying low income customers, and
 - (j) toll control for qualifying low-income customers.
3. The carrier must advertise the availability of and charges for the requisite services in a media of general distribution.⁵
4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.⁶

NSN meets all of the above criteria. Specifically regarding its offering of services using its own facilities or a combination of its own facilities and the resale of another carrier's services, NSN will use local loop and cross-connect Unbundled Network Elements (UNEs), in conjunction with its own or leased soft switches. NSN Lifeline and Link-Up tariffs are on file with the Commission.

NSN has not requested any waivers of FCC requirements. NSN commits to offer toll limitation services in accordance with 47 C.F.R. §§ 54.400 and 54.401.

AT&T Texas and Verizon serve the exchanges for which NSN requests USF support. Neither AT&T Texas nor Verizon is a rural carrier.

Staff stated that NSN meets all of the requirements established by the FCC for designation as an ETC.

⁵ *Id.*

⁶ 47 C.F.R. § 54.405 (2001).

Designation as Eligible Telecommunications Provider

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(I) requires carriers applying for ETP status to meet the definition of a local exchange carrier (LEC) as defined in PURA §51.002 (10). NSN meets this definition.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) requires carriers applying for ETP status to show that they have been granted ETC status for federal universal service support pursuant to U.S.C. §214(e). ETP and ETC designations are being handled concurrently in this consolidated docket.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires carriers to specify the Texas High Cost Universal Service Plan (THCUSP) or small or rural ILEC service area in which they propose to be an ETP. NSN specifies AT&T Texas and Verizon wire centers, which are THCUSP service areas.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires Applicants for ETP status to show that they offer the designated services defined in P.U.C. SUBST. R. 26.403 throughout the THCUSP or small and rural ILEC service area for which the carriers seek ETP status. The designated services required for ETP status are:

1. flat rate, single party residential and business local exchange telephone service, including primary directory listings;
2. tone dialing service;
3. access to operator services;
4. access to directory assistance services;
5. access to 911 service when provided by local authority;
6. dual party relay service;
7. ability to report service problems seven days a week;
8. availability of annual local directory;
9. access to toll services; and
10. lifeline and link up services.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) also requires applicants to assume the obligation to provide the services required under P.U.C. SUBST. R. 26.403 to any customer. NSN states that it meets and assumes the responsibility to offer the basic services defined in P.U.C. SUBST. R. 26.403 to all customers throughout the areas for which it seeks ETP designation.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(IV) requires that applicants show they offer the designated services through a means other than total service resale. NSN offers services through the use of its facilities and purchased unbundled network elements, and therefore meets this requirement.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(V) – (VI) requires applicants to show that they have offered continuous service that meets the quality of service standards in P.U.C. SUBST. R. 26.52 - 26.54, and that they offer Lifeline and Link-Up services in compliance with P.U.C. SUBST. R. 26.412. NSN meets these requirements. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(VII) requires applicants to advertise the availability of, and charges for, the designated services using media of general distribution. NSN commits to meeting this requirement.

NSN has also committed to offering the required designated services at a rate not to exceed 150 percent of the ILEC's tariffed rate in the same designated areas pursuant to the requirements of P.U.C. SUBST. R. 26.417(c)(1)(B).

Staff stated that NSN meets the requirements established by P.U.C. SUBST. R. 26.417 for designation as an ETP.

Ordering Paragraph

In accordance with Staff's recommendation and for all the reasons stated therein, NSN's application for ETC and ETP designation is **APPROVED**, as amended.

SIGNED AT AUSTIN, TEXAS the 23rd day of April 2007.

PUBLIC UTILITY COMMISSION OF TEXAS


ANDREW KANG
ADMINISTRATIVE LAW JUDGE